

After 2 years, the further use of export control powers will require a new 5 step process to be followed by industry and the company.

This involves preparation of a case by the industry, extensive consultation with industry and final approval of the export control by the Secretary of the Department of Agriculture, Fisheries and Forestry (AFFA). This new 5 step process also includes the preparation of a Regulation Impact Statement by AFFA to ensure the proposed use of the powers complies with National Competition Principles.

The company's ongoing use of the powers will be subject to conditions set out in the Deed of Agreement and to Administrative Appeal Tribunal review to ensure exporters are fully informed of the use of export control powers.

The new company arrangements are expected to deliver significant benefits to the horticulture industries.

These include :

design and delivery of research and development and marketing services would be integrated into one company, to allow the provision of 'market-driven' research and development programs,

afford industries the flexibility to determine the arrangements that best address their individual circumstances,

generate streamlined and focussed industry programs that have the capacity to realise synergies between research and development and marketing,

harness the expertise of other members of the horticultural supply chain, where appropriate,

and promote commercial innovation at the farm business level through providing programs that complement the activities of individual growers.

The bill is strongly supported by the horticulture industry which is to be commended for its efforts in bringing this initiative to fruition - in partnership with the Government.

#### HORTICULTURE MARKETING AND RESEARCH AND DEVELOPMENT (REPEALS AND CONSEQUENTIAL PROVISIONS) BILL 2000

This bill accompanies the Horticulture Marketing and Research and Development Services Bill 2000.

The purpose of this bill is to provide for:

the transfer of assets, liabilities and staff of the two existing Corporations, the Australian Horticultural Corporation (AHC) and the Horticultural Research and Development Corporation (HRDC) to the new horticulture services company

to protect existing staff entitlements in the transfer

the flow of statutory levy and matching R&D funds to the new company

the transition period for the use of export control powers of the AHC

provide for a Trust to hold Australian dried fruit industry reserves

completion arrangements for final annual reports of the two Corporations

the regulation making powers under the Act

repeal and consequential provisions for other Acts, including abolishing the AHC, the HRDC and the Australian Dried Fruits Board.

These arrangements are necessary to establish the new company and provide for the legislative arrangements to apply in the future.

The Act also provides for the Minister of Agriculture, Fisheries and Forestry to declare the transfer day for the new company and for notice of this to be published in the Gazette within 14 days.

The AHC and HRDC are required to assist the establishment of the new company and the Act provides for the Minister of Agriculture, Fisheries and Forestry to issue written directions to this effect as needed.

All assets, liabilities and staff are to be transferred to the new company, with the exception of an amount of \$2m of dried fruits industry reserves, which is to be held in a Dried Fruits Trust for future industry marketing programs.

These reserves have been built up over many years and the dried fruits industry have requested that a Trust be established to allow for industry control of these reserves in the future.

The transfer of assets to the new company are to be exempt from stamp duty and other State taxes in order to preserve industry funds.

The bill also provides for the repeal of the AHC and HRDC Acts and the consequential amendments to other Acts as a consequence of this.

Ordered that further consideration of these bills be adjourned to the first day of the 2001 autumn sittings, in accordance with standing order 111.

#### CIVIL AVIATION AMENDMENT REGULATIONS 2000 (No. 3)

**Senator GREIG (Western Australia)** (3.46 p.m.)— I seek leave to move business of the Senate notice of motion No. 8 in an amended form.

Leave granted.

**Senator GREIG**—I move:

That Part 47 of the Civil Aviation Regulations in Item [7] of Schedule 2 and Items [1], [4] and [5] of Schedule 3 of the Civil Aviation Amendment Regulations 2000 (No. 3), as contained in Statutory Rules 2000 No. 204 and made under the Civil Aviation Act 1988, be disallowed.

I am pleased to be able to move this disallowance motion this afternoon, and particularly pleased that it is in my capacity as the Democrat spokesperson for transport. The Democrats are moving this motion because the amended part 47 of the civil aviation regulations put forward by the government is seriously flawed for at least three reasons. Firstly, the consultation process, which ought to have been comprehensive and clearly accessible, did not alert people to exactly what it was that CASA, the Civil Aviation Safety Authority, was intending to do. Secondly, the definition of ownership was manipulated to such an extent that aircraft owners became fearful that they would lose their aircraft through administrative bungling. As of this afternoon, I have received approximately 1,000 emails and/or faxes from general aviation pilots deeply concerned about this particular regulation being proposed. The third reason is that the amended regulation would put Australia at odds with the International Civil Aviation Organisation and its advocacy and recommendations.

Aircraft owners found out about this particular proposed change to the regulations only when they recently received a letter saying that, in some cases, they had to change the name on the certificate of registration. It is true that a notice of proposed rule

making, locally known within the industry as an NPRM, was issued in 1998, but it really did fall short of what is usually understood to be a consultative process. The NPRM appears only on the CASA web site and is, therefore, accessible only electronically and only to those with Internet access. The NPRM did not refer to the letter that aircraft owners were about to receive. The NPRM defined the owner of an aircraft as, 'the person who has possession and control of the aircraft'. The Oxford dictionary defines an owner as 'someone who owns as property an object'. The regulation that we are moving to disallow defines the owner as 'the person responsible for the aircraft's maintenance and airworthiness'.

It is little wonder, I suggest, that CASA did not get much negative response from its NPRM. CASA did not tell people during the consultative process—to the extent that it existed—just what it was that it intended to do. Those pilots who read the explanatory notes would have been reasonably satisfied with the NPRM's definition of an owner. It would have been only those who kept reading through the electronically posted NPRM on the proposed regulation—60 pages in total—who would have stumbled over the new CASA definition of owner, a definition probably unrecognisable to the writers of the Oxford dictionary. Even reading the regulation would not have triggered concern unless CASA also included the letter or made reference to the letter that it was intending to send to all aircraft owners. The letter CASA sent out to certificate of registration holders said:

The new regulation means that if you are not controlling the maintenance of your aircraft you are required to transfer your certificate of registration to the person who is.

The reason given in the letter for transferring the certificate of registration was:

There have been too many incidents in which vital safety information such as airworthiness directives has not been passed on by the certificate of registration holder to the person controlling the airworthiness and maintenance of the aircraft.

As an aside, it is worth noting that, although the incident in which Mr Mick Toller of CASA was recently involved—and about which I asked the minister a question recently—did not involve an airworthiness directive, his method of passing on vital safety information was not in itself in accordance with the regulations. The Democrats and aircraft owners understood the letter to refer to aircraft owners who hire their aircraft to charter operators or flying schools. An owner has no other title over ownership in a similar vein to car ownership. Nobody would reasonably ask you to hand your car registration to someone else if you happen to hire your car or have it borrowed from you.

The government took the issue a step further and said that the reason for the letter and regulation change was that there was a problem with people who went overseas and loaned their aircraft to someone else in their absence. According to the government, these people were not giving airworthiness directives to the person who had borrowed the aircraft. The government did not take into account the fact

that the person who has possession of the aircraft may not be totally honest. Aircraft owners see the practical problems more readily than CASA has, certainly in relation to this particular proposed change to the regulation. How is the ownership of the aircraft determined if the certificate of registration is in the possessor's name rather than the actual owner's, as per a dictionary definition? As I said, since the Australian Democrats gave notice to move this motion to disallow, we have been inundated with faxes and emails of support.

I also want to acknowledge the tremendous voluntary work of

Mr Boyd Munro, an advocate for general aviation and its safety—who I understand made the effort at his own personal expense to be here today—who threw his weight and expertise behind this particular campaign to ensure that regulation 47 did not proceed. I understand that many members of parliament, like me, have received similar faxes and emails, if not the same ones. It is interesting, in going through many of those faxes, to note some of the comments made by many small aircraft owners and operators. For example, a Cessna owner from Victoria wrote:

My first thought when this lovely piece of CASA toilet paper arrived was 'sod off'. It took me 16 years of hard work, huge amounts of grovelling to the missus and a dose of insanity to buy my Cessna. There is no way known I would ever assign my CofR to someone else; it is mine.

An understandable sentiment. Another pilot said that the law-makers at CASA were being 'rather stupid':

I do not think the people at CASA are wilfully stupid—I think they are essentially good people—but I do think they are working under difficult circumstances where there does not appear to be any clear directive from the minister for transport in terms of what it is they should be doing and focusing on as a priority.

That particular comment came from a Piper owner in New South Wales. Another Cessna owner from Queensland wrote:

I got this letter regarding CofR transfers and what I thought to myself was 'what a load of rubbish' and I threw it away. I hope CASA will not be upset.

Yet another owner wrote:

I think that this latest proposal by CASA to transfer aircraft regulations is absolutely crazy. It seems to me that they must mirror their own mentality when thinking about aircraft owners. I often wonder how many of them have bought their own aircraft with their own funds after having worked and saved for many years to accumulate those funds. I think they lack commercial reality.

That comment was from a Beechcraft owner in New South Wales. Many similar sentiments both by fax and email were received in my office and I am sure in others' offices.

An additional problem that aircraft owners will experience from this proposed change is in relation to the Chicago convention signed in the United States on 7 December 1944. That convention aims to develop international civil aviation so as to greatly help create and preserve friendship and understanding among the nations and peoples of the world in a safe and orderly manner so that international air transport

services may be established on the basis of equality and opportunity, and operated soundly and economically.

Article 21 of that convention deals with 'the keeping of a record' of aircraft owners—in the Oxford dictionary sense. It states that 'each contracting state undertakes to supply to any other contracting state, or to the International Civil Aviation Organisation on demand, information concerning the registration and ownership of any particular aircraft registered in that state'. Under the amended regulation 47, the regulation that we seek to disallow, Australia would not meet its obligations under the Chicago convention, because there would be no aircraft register that gives ownership information of aircraft in Australia. For all of these reasons I urge other senators to give serious consideration to joining with the Democrats to support this disallowance motion so that part 47 of the civil aviation regulations would be disallowed.

In summarising, what we Democrats are hoping to achieve here today is that there be no uncertainty about ownership, and we argue the case that this particular proposed regulation, which means an owner would have to supply their certificate of registration to someone leasing a plane or borrowing a plane, is really quite absurd. It brings in an element of ambiguity and uncertainty with aircraft owners which is both unnecessary and unwarranted.

**Senator O'BRIEN (Tasmania)** (3.57 p.m.)—I am pleased to see the Minister representing the Minister for Transport and Regional Services back here after question time. I am sure he has spent some of the intervening time looking up the handbook just to see who Mr John Sharp was, what his portfolio was and what period he spent in cabinet. I am sure he has refreshed himself on that and that he will be better equipped when he is next asked a question about it. He might even care to put something on the record in this debate.

I was reminded in the contribution by Senator Greig about a matter I raised in question time which seems to me to be very relevant to the question concerning this process of disallowing the making of a regulation or opposing part of a regulation, if I can put it that way—that is, the question regarding the chief executive of the Civil Aviation Safety Authority, Mr Toller, being counselled for breaking such a regulation.

When we go through this process, flawed as it has been in this case—where there has to be a proper consultation process with the industry, people made aware of what is intended to be done and then a law made effectively by the parliament by not disallowing such a regulation—one would have thought the promulgator would have had greater respect for it than anyone else. I think that is a problem which sits in the mind of some of the senators here in relation to the occurrence that we mentioned in question time.

Turning to the regulations in question—the Civil Aviation Amendment Regulations 2000 (No 3), which were made on 24 July this year, gazetted on 31

July and tabled for scrutiny in both houses on 14 August—on 9 October we saw Senator Greig give notice of a motion to be moved within 10 sitting days to disallow all of those regulations. The amendments to the regulations added a subpart Q to part 21, 'Identification of aircraft and aeronautical products', part 45, 'Nationality and registration marks' and part 47, 'Registration of aircraft' of the Civil Aviation Regulations 1998, as well as making some related amendments to those regulations.

The changes to part 47, registration of aircraft, have generated—as Senator Greig has indicated—a significant amount of anger and concern in the aviation industry, particularly from aircraft owners. The other parts of the regulation do not appear to the opposition to be contentious. These new regulations were introduced to address problems the Civil Aviation Safety Authority had identified with Australia's aircraft registration system. From a safety perspective, the previous regulations failed to clearly identify that the person holding the certificate of registration for an aircraft was responsible for the airworthiness control of the aircraft. It was therefore possible for airworthiness directives to be directed to a person who was not actually operating the aircraft. There is a debate in the industry that this is indeed a problem.

While part 47 attempted to address this potential safety concern, the new regulation is ineffective because of an unusual definition of the word 'owner'. As a result, the new regulation is being interpreted to mean that aircraft owners must transfer their certification of registration to the organisation responsible for maintenance and airworthiness of the aircraft. A further interpretation is that this transfer equates to or implies a transfer of ownership of the aircraft. While the government denies this impact, the minister's office conceded to Labor that the definition is 'strange and not consistent with the normal dictionary meaning of the term'. Industry anger and confusion about this new regulation have been fuelled by misleading communiques from the Civil Aviation Safety Authority to the industry on matters related to this issue. A fundamental problem with this regulation is the ineffective consultation with the industry about its implications.

Labor supports wholeheartedly this motion, as amended, to disallow that part of the regulation. It means that only the offending part of the regulation is to be disallowed. From the start of this issue, Labor has acknowledged the anger, confusion and technical problems with the changes to part 47. However, we have also not wanted to obstruct other reform measures in the regulation. This included changes that may assist in controlling problems like bogus parts. This is what has set our approach apart from that of the Democrats on this matter. They have speedily pursued a total disallowance proposal which would have killed off the good with the bad in this regulation. We have been carefully and responsibly considering the best course of action.

Our original call to the government, I might say, was to withdraw the regulation, make the necessary change to remove part 47, and then resubmit the

other positive parts. We did find, however, that this presented some technical difficulties with Senate procedures. So following negotiations between the office of the Minister for Transport and Regional Services and the office of the shadow minister for transport, Mr Martin Ferguson, the sensible option—that is, to disallow only the offending part of this regulation—was found. In saying that, however, Labor would have been prepared to disallow the whole regulation were that the only way to prevent the promulgation of the totally objectionable part of this package. The industry reaction to this regulation was voluminous and appeared to us to be unanimous in its opposition to this change.

While CASA claimed that it consulted appropriately on this issue, it is baldly apparent that it was not effective consultation, if indeed it was as broad as CASA suggests. The process of aviation reform in this industry, I might say, is in an appalling state. Labor calls on the minister to intervene to ensure that CASA stops giving lip-service to consultation, which is what we think has been the case in this matter. CASA must understand—and I draw on and quote part of a decision by Commissioner Smith back in 1990 that involved CASA's predecessor, the Civil Aviation Authority—that they must consult 'not only in appearance but in fact'. I urge CASA to take this on board when they go back to the industry to revisit the issue of aircraft registration.

Labor takes this opportunity to thank all who have stepped forward to make their views known to us, as they have to other senators. Labor will be supporting the disallowance motion as amended, because it removes the objectionable part of the regulation whilst retaining those parts of the regulation which appear to us to be wholly unobjectionable.

**Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government)** (4.05 p.m.)—Senator O'Brien indicated as he commenced his contribution that he was concerned to know what I had been doing after question time. He was hoping I had been doing certain things. Senator O'Brien, can I put your mind at rest. No, I was not doing what you hoped I was doing. I was in fact at the Australian War Memorial with the Administrator of Norfolk Island. On behalf of the Norfolk Island government we presented two special sets of limited edition Norfolk Island stamps signed by two surviving Australian Victoria Cross winners, Mr Ted Kenna VC and Mr Keith Payne VC. They were signed on Anzac Day 2000 on Norfolk Island. So it has been a very productive afternoon for me since question time, and I thank you for your interest in my movements.

I understand the arguments both Senator Greig and Senator O'Brien have made. Some of the submissions that both senators indicate their colleagues have received from the industry I am told have also been received by many members on this side as well. Submissions are always put, and we as both senators and members of the government are interested in addressing those issues, listening to people who have

concerns, and of course passing those concerns on to the minister and the department.

I do thank both the Australian Democrats and the Australian Labor Party for their cooperation in amending the original disallowance motion. Had the original disallowance motion gone ahead, it would have meant that the whole series of important regulatory reforms that this regulation brings about would have been cancelled, dismissed, and unable to start. That would have made the regulation of aviation even more difficult and the goal of safety that we all aspire to even more difficult, so I do appreciate them both working with the government on amending the motion to get it to the state it is now in. We still do not agree with the motion in the state that it is in, but it is certainly infinitely better than the original motion.

As the other speakers have said, the Civil Aviation Safety Authority developed part 47 as part of the government's regulatory reform program. The government is steadily updating and simplifying Australia's air safety regulations and bringing them into line with international best practice. Part 47 addresses a problem in the existing aircraft registration system. At present, the registration system does not clearly identify the person or organisation responsible for controlling the maintenance of a registered aircraft. For example, it is not unknown for private aircraft owners to loan their planes to friends or to the local aero club for long periods. Under the existing registration system, the Civil Aviation Safety Authority would continue to send airworthiness notices to the owner, who might be away, who might be overseas or who might simply forget to pass them on to the person who currently has control of the aircraft.

The government's objective has been fairly straightforward—that is, it is one of ensuring that the person responsible for controlling the maintenance of an aircraft actually receives the maintenance instructions from CASA. Senator Greig contended in his contribution that part 47 was comparable with requiring a car owner to transfer his or her registration papers to the local garage. That interpretation of the regulations is not correct. This part would require that the registration papers be transferred to the person or organisation making the decisions about whether or not to have the aircraft maintained, not to the person who actually carries out the work.

Senator Greig has raised two main concerns about the regulations. The first is the level of consultation with the industry, and it is very appropriate to raise that. CASA circulated a draft of these regulations in August 1998. There were only 61 responses, and they were mainly of a fairly minor nature. The number of complaints that we have all received shows that the consultation process was not adequate. I agree with other speakers—and I know Mr Anderson does as well—that CASA will have to make more of an effort to explain its proposed changes to the air safety regulations and to listen to the concerns of the industry. That message has, as I said, come through loud and clear in what Senators Greig and O'Brien said, and certainly in what a lot of Liberal and National

Party members and senators have indicated from the responses they received.

However, I might say that the industry also needs to sharpen up its act in these matters. These changes were widely advertised, yet, as I mentioned, CASA only received some 61 responses. This is despite the fact that almost everyone in the aviation industry agrees that regulatory reform is necessary. Many people in the industry argue that the government is not pressing ahead fast enough, and yet it seems that few people in the industry could be bothered reading about the changes or commenting on them. The second concern raised in the debate relates to the issue of aircraft ownership. Many aircraft owners have argued that their certificate of registration constitutes proof that they own the aircraft.

*Senator Bolkus interjecting—*

**Senator IAN MACDONALD**—It is just that I cannot hear myself think—that is all.

**Senator Bolkus**—Sorry to interrupt you.

**Senator IAN MACDONALD**—That is okay. Do not worry about it. I accept that as your behaviour, Senator Bolkus, so it does not come as a surprise.

I make it clear that the certificate of registration has never been proof of ownership. As I say, many aircraft owners have argued that their certificate of registration constitutes proof that they own their aircraft. They were concerned that part 47 would undermine their property right. But I emphasise again that a certificate of registration has never been proof of ownership. The civil aircraft register does include information about the holders of property interests in registered aircraft, but this information is based purely on advice provided by certificate holders. A certificate of registration has no conclusive legal value, and the Federal Court has judged that it has no conclusive legal value. It cannot be used in the courts to determine ownership claims on Australian aircraft. Nor does the register provide any security of property interests or any notice of property interests. Because of its limited scope, it also does not even record all the people who may have an interest in the aircraft. It is clear that there is a widespread belief that certificates of registration should also be proof of ownership. Part 47 does not meet this objective, but then nor does the 1988 registration system which it was hoped part 47 would upgrade.

The government recognise that the ownership issue needs to be resolved and, as a result, we will not be dividing on the disallowance motion. The Democrats and the opposition have, as I said, worked productively with us to limit the scope of part 47, and again I express the government's appreciation of that. The Deputy Prime Minister and the Minister for Transport and Regional Services, Mr Anderson, will be announcing the establishment of a joint government-industry committee to draft a discussion paper on developing a new registration system. Mr Boyd Munro, who Senator Greig mentioned, was invited to join this committee but the early indications I have are that Mr Munro will not accept that position, which is perhaps unfortunate, because he obviously

has a contribution to make and it would certainly be useful to have his views.

The committee will be tasked with developing an effective, simple system for registering aircraft, taking into account the best elements of previous work. The new system will have to ensure that CASA can definitely identify the person or organisation responsible for making decisions about the maintenance of an aircraft. The committee will also consider whether it would be desirable to establish a system to provide conclusive information about aircraft ownership or to maintain a list of the encumbrances on any particular aircraft. The cost of establishing and running such a system would be recovered from the industry. It has been suggested that the 1988 registration system does not need to be updated at all. In the government's view those suggestions are not correct. The 1988 registration system is out of date; it does not meet the government safety objective, which is a fairly straightforward one of ensuring that airworthiness notices reach the right person. It is not a legally valid ownership register even though it appears that many people in the industry would like to have one.

The committee will be required to submit its discussion paper to the Director of Aviation Safety by Friday, 27 April 2001. A discussion paper will then be circulated for industry-wide comment. I do urge the aviation industry to look for that discussion paper when it comes out. I know that it will be widely circulated and advertised, and I do urge the industry and all those interested in the matter of aviation safety to have a look at it and, if they have a view, to make sure that they respond to the draft regulations. I am confident that the revised consultation arrangements will enable us to develop a new registration system that meets the government's safety and administrative objectives and also meets the concerns of the aviation industry.

**Senator GREIG (Western Australia)** (4.17 p.m.)—In summing up, I would like to make a few points. Firstly, I would like to acknowledge that Senator O'Brien did ask some pertinent questions with respect to CASA's chair today in question time. While there may be problems surrounding the qualifications that Dr Scully-Power holds, we Democrats have always been more concerned with focusing on policy rather than personality. However, we recognise that CASA's approach to aviation regulation has many problems and that this proposed regulation change is symptomatic of that approach within CASA.

Senator O'Brien made a point about parts and spare parts. I would comment that these new regulations would mean, in continuing the car analogy, for example, that aircraft owners can only use original manufactures, not spares from, say, Repco. Senator O'Brien also made the point that Labor would have been prepared to disallow this entire set of regulations rather than simply part 47. I make the point that, if that was Labor's position, it did not at any stage state that to the Democrats, and today is the first I have heard of it. Towards the end of his speech, Senator Macdonald said that Mr Munro had not accepted his invitation to participate in the coming con-

sultation and inquiry process. I understand from Mr Munro that the reason he did not accept the invitation is because he believes that the present aircraft register is sufficient. Perhaps he may consider participating in some way to present that case, but at this stage he has chosen not to.

In a general sense, in terms of the issue before us, my underlying concern is that the transport minister, Mr Anderson, appears to have no real commitment to general aviation and, as minister, has not successfully advocated what we Democrats would consider to be aviation reform. As it happens, general aviation is a significant and very necessary part of rural and regional communities and rural and regional economies—an area that Mr Anderson as both a member of parliament and Leader of the National Party claims to represent. This is evidenced by the overwhelming support that I and other MPs have received in terms of opposing regulation 47, whether through letters, emails or faxes. A great many of them came from rural and regional areas.

In a general sense I am concerned that what appears to be happening at times with CASA is that they seem to be busying themselves with what Jim Hacker from *Yes, Prime Minister* might have described as creative inertia—or perhaps that was Sir Humphrey. CASA, by busying themselves with over-regulation, seem to be producing more and more obscure, unnecessary and abundant regulations as a way of seemingly justifying their own existence. General aviation activity in Australia has slipped to an all-time low. The point that Senator O'Brien made in terms of the letters and faxes that we senators have been receiving is that they have been unanimous. Senator O'Brien was not clear that they were unanimous, but certainly from my observation—from the approximately 1,000 which I received, which I understand represents 65 to 70 per cent of small plane owners across the nation—not one of them, not one letter, fax or phone call from a general aviation pilot, said, 'Yes, this is a good and necessary regulation; yes, we want your support for it. Please don't oppose it.' Quite the contrary. So, given all that, I think it best that regulation 47 be disallowed.

Question resolved in the affirmative.

## FUEL QUALITY STANDARDS BILL 2000

### In Committee

Consideration resumed.

The bill.

**Senator BOLKUS (South Australia)** (4.22 p.m.)—by leave—I move opposition amendments Nos 1 to 5:

- (1) Clause 11, page 6 (lines 9 and 10), omit "to exempt compliance with a fuel standard or".
- (2) Clause 12, page 7 (lines 11 and 12), omit paragraph (d).
- (3) Clause 13, page 8 (lines 3 to 13), omit the clause, substitute:

### 13 Grant of approval

- (1) The Minister may grant to any person an approval in writing that, in respect of specified fuel that is the subject of a fuel standard, varies the

standard in a specified way in respect of specified supplies of the fuel by:

- (a) that person; or
- (b) any other specified person (a *regulated person*).

- (2) An approval under subsection (1) comes into force on the day specified in the approval and remains in force for the period specified in the approval.

- (4) Page 9 (after line 17), after clause 17, insert:

### 17A Approvals and reasons for approvals to be made public

As soon as practicable after granting an approval under section 13, the Minister must cause to be published in the *Gazette* a notice containing the following information:

- (a) the name of the person to whom the approval has been granted;
- (b) the period of operation of the approval;
- (c) details of the approved variation of the fuel standard;
- (d) reasons for granting the approval.

- (5) Clause 20, page 12 (lines 16 to 24), omit paragraph (e), substitute:

- (e) if:
  - (i) the fuel was supplied to the person in Australia; and
  - (ii) any person held an approval varying the standard in respect of that supply;

the fuel as altered does not comply with that standard as varied (whether or not the fuel complied with that standard as varied before the alteration).

Under the provisions in the legislation as proposed, the minister can grant an approval to exempt a person from compliance with a fuel standard or to vary a fuel standard in respect of fuel supplied by a particular person. This is to provide for some flexibility for special events, such as car rallies or special applications—in Antarctica, for instance. The ALP has had a concern that this provision does provide excessive discretion for the minister and may lead to an uneven playing field in industry. These are points that I made in the second reading stage of the debate, but I am making them again to give the minister some time to appear, although Senator Macdonald may have had some written instruction in the meantime. My understanding is that, in respect of this batch of amendments, at least, the government is prepared to accept them.

**Senator Ian Macdonald**—Keep talking. I want to hear a bit more about it.

**Senator BOLKUS**—I have not persuaded you yet. Senator Allison might. There is no provision in the legislation for consultation with a fuel standards consultative committee or for public consultation. There is no provision for the reasons for such a decision to be made public and there are no limits on the duration of such an exemption. Where an exemption is given rather than a variation on a standard, there is effectively no minimum standard imposed on that